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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,756	07/31/2003	Charles R. Weirauch	200314250-1	4652

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

LEMMA, SAMSON B

ART UNIT	PAPER NUMBER
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2132

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/632,756	Applicant(s) WEIRAUCH, CHARLES R.	
	Examiner Samson B. Lemma	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/06</u>  | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 2132

### ***DETAILED ACTION***

1. This office action is in reply to an amendment filed on November 14, 2006.

**Claims 1-4 and 6 are canceled. New claim 7 is added. Independent claims 5 and 9 are pending/examined.**

### ***Response to Arguments***

2. Applicant's remark/arguments filed on November 14, 2006 regarding **claims 5 and new claim 7** have been fully considered but they are not persuasive.

Applicant argument is based on the reference used in rejecting the corresponding limitation recited in the independent claim 5.

Applicant in particular argued that the limitations which is recited in pervious claims 5 and new claim 7, such as "sending the sector data in an unencrypted form to the requestor" is not disclosed by the reference on the record namely, **Yamauchi**.

In order to support his argument, Applicant wrote the following. "In claim 5 and in new claim 7, the header data permits the drive to send unencrypted sector data to a requester. In Yamauchi et al., the drive is never permitted to send unencrypted sector data."

"In Yamauchi et al., for one state of the attribute flag the drive must convert the digital data into video before being output (for example, column 8, lines 62-65). That is, **what is sent is not the unencrypted sector data, but a transformation of the sector data**. In another state, encrypted data is sent after authentication is successful (for example, column 8, lines 8-27)."

**Examiner disagrees with the above argument.**

Examiner would point out that a transformation of digital data into video does not necessarily imply encryption. Conversion of digital data from one form to the other is not necessarily considered to be encryption. Data is considered to be

Art Unit: 2132

encrypted when encryption key is involved in the encryption process to produce a cipher text or if the data undergoes through some kind of encryption algorithm.

Furthermore, the reference on the record namely Yamauchi, on column 7, lines 12-36 discloses the following.

*"The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging whether or not the digital data is video information based on the data attribute flag; and a control section for outputting the digital data and the data attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section for receiving the digital data via the digital interface; a judgment section for judging whether or not the digital data is video information based on the data attribute flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without being converted into the video data when the digital data is video information, whereby the above objective is attained."* And such conversion does not imply encryption.

Art Unit: 2132

*However in some other embodiment Yamauchi also disclosed outputting **encrypted digital data as it is described** on column 8, lines 10-27 and column 8, lines 39-65.*

*"wherein the information recording medium has a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not digital data stored in the data region is video information, the data transmitting device receives information specifying digital data to be retrieved and the data receiving device; retrieves the specified digital data from the information recording medium; judges whether or not the data region includes video information based on the data attribute flag; authenticates whether or not the data receiving device is a proper data receiving device when the data region includes video information; **and outputs the retrieved digital data after encrypting via the digital interface** only when the authentication has been successful, and the data receiving device proves itself as the proper data receiving device in response to the authentication from the data transmitting device and converts the digital data into the video data after decrypting the encrypted digital data received via the digital interface, whereby the above objective is attained."*[column 8, lines 10-27 and column 8, lines 39-65.]

The rejection is maintained until the claims are amended and successfully overcome the ground of rejection.

Even though, the specification contains subject matter that might be allowable, the independent claims have not yet been written or included such subject matter.

### ***Claim Rejections - 35 USC § 102***

Art Unit: 2132

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 5 and 7** are rejected under 35 U.S.C. 102(b) as being anticipated by **Yamauchi et al** (hereinafter referred as **Yamauchi**)(U.S. Patent No. 6,047,103)

5. **As per claims 5** **Yamauchi discloses a data storage medium**, [column 8, lines 8-9 & column 8, lines 37-38] (see “information recording medium) comprising:

- **A sector, the sector including header data and sector data;** [Column 8, lines 7-10; column 8, lines 37-40; column 7, lines 66-column 8, line 10 and column 8, line 28-40] (wherein the information recording medium has a sector structure having a header region and a data region)
- **The header data specifying whether a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to a requestor.** [column 7, lines 12-36] (*“The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging whether or not the digital data is video information based on the data attribute flag; and a control section for outputting the digital data and the data attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting*

Art Unit: 2132

*device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section for receiving the digital data via the digital interface; a judgment section for judging whether or not the digital data is video information based on the data attribute flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without **being converted into the video data when the digital data is video information, whereby the above objective is attained.**" And such conversion does not imply encryption and meets the limitation of **sending the sector data in an unencrypted form to a requestor.**)*

6. **As per claim 7 Yamauchi discloses a data storage medium**, [column 8, lines 8-9 & column 8, lines 37-38] (see "information recording medium) comprising:

- **A sector, the sector including header data and sector data**; [Column 8, lines 7-10; column 8, lines 37-40; column 7, lines 66-column 8, line 10 and column 8, line 28-40] (*wherein the information recording medium has a sector structure having a header region and a data region*)
- **The header data having a first value that specifies that a drive reading the data storage medium is permitted to send the sector data in an unencrypted form to a requestor.** [column 7, lines 12-36] (*"The data transmitting device according to the present invention includes: a data retrieval section for retrieving digital data by reproducing an information recording medium having a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not the digital data stored in the data region is video information; a judgment section for judging whether or not the digital data is video information based on the data attribute flag; and a control section for outputting the digital data and the data*

Art Unit: 2132

*attribute flag when the digital data is video information, whereby the above objective is attained. The data receiving device according to the present invention is a data receiving device connected to a digital interface for receiving digital data including video information from a data transmitting device via the digital interface, for converting the digital data into video data, and for outputting the video data, the data receiving device including: an interface section for receiving the digital data via the digital interface; a judgment section for judging whether or not the digital data is video information based on the data attribute flag included in the received digital data indicating whether or not the digital data is video information; and a control section for prohibiting the digital data from being output to the digital interface without being converted into the video data when the digital data is video information, whereby the above objective is attained." And such conversion does not imply encryption **and meets the limitation of sending the sector data in an unencrypted form to a requestor.) and***

- o **The header data having a second value that specifies that a drive reading the data can only send the sector data in an encrypted form to a requestor** [Column 8, lines 10-27 and column 8, lines 39-65] *(on the other embodiment for instance on Column 8, lines 39-65 the following has been disclosed. "wherein the information recording medium has a sector structure having a header region and a data region, the header region storing a data attribute flag indicating whether or not digital data stored in the data region is video information, the data transmitting device receives information specifying digital data to be retrieved and the data receiving device; retrieves the specified digital data from the information recording medium; judges whether or not the data region includes video information based on the data attribute flag; authenticates whether or not the data receiving device is a proper data receiving device when the data region includes video information; **and outputs the retrieved digital data after encrypting via the digital interface only when***



Art Unit: 2132

*the authentication has been successful, and the data receiving device proves itself as the proper data receiving device in response to the authentication from the data transmitting device and converts the digital data into the video data after decrypting the encrypted digital data received via the digital interface, whereby the above objective is attained.")*

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2132

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**SAMSON LEMMA**

**S.L.**

**01/29/2007**



**GILBERTO BARRON JR**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**